IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 17370 of 2004

Between:

1 M. Sairam, S/o. Ramesham,
R/o. Katta Rampoor Locality of Karimnagar Town, Karimnagar District.
2 Kannam Srinivas, S/o. Venkataiah,
R/o. Bhagathnagar Locality of Karimnagar Town, Karimnagar District.
3 Pudhari Srinivas, S/o. Venkatramuloo,
R/o. Kothirampoor Locality of Karimnagar Town, Karimnagar District.
4 Dasari Raju Prabhakar, S/o. Rangaiah,
R/o. Bhagathnagar Locality of Karimnagar Town, Karimnagar District.

..... PETITIONERS

AND

1 The Superintendent of Police, Karimnagar District, Karimnagar.
2 The Station House Officer, P.S., Huzurabad, Huzurabad,
Karimnagar District.
3 Manchala Sambaiah, S/o. Narayana,
R/o. H.No. 16-8-73, Abbani Kunta, Warangal.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order to direction or writ under Article 226 of the Constitution of India, more particularly one in the nature of Writ of Mandamus declaring the action of the second respondent in registering a case in Cr.No.155 of 2004 against the petitioners under sections 420 and 392 of 2004 on the file of P.S., Huzurabad, Karimnagar District, as bad, arbitrary, illegal, unjust and against the principles of natural justice.

Counsel for the Petitioner : MR. C.DAMODHAR REDDY

Counsel for the Respondents 1 and 2 : GP FOR HOME

The Court at the admission stage made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.17370 OF 2004

ORDER :

The petitioners seek a Writ of Mandamus declaring the action of the 2nd respondent in registering Cr.No.155 of 2004 on the file of P.S. Huzurabad, Karimngar against the petitioners under Sections 420 and 392 of the Indian Penal Code as arbitrary and illegal.

As can be seen from the material on record, Crime No.155 of 2004 has been registered in pursuance of a complaint dated 04-09-2004 lodged by the third respondent. In the said complaint, it was alleged that on 14-06-2004 the first petitioner offered to sell the Maruti Car bearing Regn.No. AP 11 B 9495 and out of the sale consideration of Rs.1,20,000/-, as per the agreement, he paid Rs.40,000/- and that the original agreement is in the custody of the first petitioner. He also stated that the car was given to him on 15-07-2004 and thereafter he paid a further sum of Rs.24,000/- through one Boragala Mogili and obtained a receipt for the same and that he also arranged Rs.50,000/- through Samatha Finance. Thereafter, when the 1st petitioner went to him for collecting the remaining balance of Rs.5,000/-, the 3rd respondent asked him to get the registration documents which are in the name of one Thakur Sampath Singh and then to take the balance amount of Rs.5,000/-. Two days thereafter, the 3rd respondent's friend Marepalli Srinivas, a resident of Hyderabad has taken the said car for his personal use. While so, on 5-8-2004 the petitioners along with two others went to Huzurabad and forcibly took away the Car

from the said Marepalli Srinivas. Thereafter, the 3rd respondent came to Karimnagar and asked the 1st petitioner several times to give either the car or to return the amount, but the 1st petitioner refused and threatened him. Hence, necessary action be taken against them for cheating him and for taking away the Car forcibly. Basing on the said complaint, the Police registered Crime No.155 of 2004 on the file of P.S. Huzurabad under Sections 420 and 392 of the Indian Penal Code and took up investigation.

This writ petition is filed challenging the registration of the said crime contending that all the allegations made by the third respondent are false and without any basis and that though there is no valid document to support the allegations, the 2nd respondent has mechanically registered the case and making attempts to arrest the petitioners.

The learned Counsel for the petitioner vehemently contended that, on the basis of the allegations made in the complaint, no prima facie case is made out to satisfy the ingredients of either Section 420 or Section 392 of I.P.C. He contends that the allegation of the third respondent that the registration of the vehicle does not stand in the name of the first petitioner is incorrect. A xerox copy of the registration of the vehicle has been placed before this Court to show that the registration stands in the name of the first petitioner. The further contention is that whereas the alleged incident took place on 05-08-2004, the complaint was lodged a month thereafter on 04-09-2004 and particularly in the absence of any complaint from Marepalli Srinivas from whom the vehicle was alleged to be taken away, the registration of crime against the petitioners is nothing but gross abuse of the process of law and that there are absolutely no bona fides on the part of the respondents.

Admittedly, the investigation is still pending. Whether the alleged offences under Sections 420 and 392 of I.P.C. are made out on the basis of the allegations made in the complaint dated 04-09-2004 made by the third respondent is a matter to be enquired into by the investigating officer. The contention of the 1st petitioner that he is not at all concerned with the alleged offence cannot be accepted at this stage by this Court only on the basis of the Xerox copy of certificate of registration dated 6-6-

1994 produced before this Court. It is for the respondents 1 and 2 to make the necessary enquiries as to the ownership of the vehicle in question and as to the genuineness of the said document. As held by the Supreme Court in STATE OF HARYANA Vs. BHAJANLAL this Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations in the complaint at this stage. The fact that the complaint was made one month after the alleged incident is also one of the factors that will be taken into consideration by the investigating authority while enquiring into the correctness of the allegations.

Hence, Writ Petition is devoid of any merit and accordingly dismissed.

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29th September, 2004.

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To

1 The Superintendent of Police, Karimnagar District, Karimnagar.
2 The Station House Officer, Huzurabad Police station, Huzurabad, Karimnagar District.
3. 2 CCs to G.P. for Home, High Court of AP Bldgs, Hyderabad (OUT).
4. Two CD copies.